IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.717 OF 2003

Sirajuddin Shaikh Yusuf .. Petitioner

Versus

State of Maharashtra & Anr. .. Respondents

Mr.A.S.Khandeparkar for petitioner

Mr.B.K.Raje for respondent No.2

Mr.S.S.Tatkare, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 14th December 2005.

P.C.

. Both sides do not dispute that the order under challenge is in proceedings instituted

under section 145 of Cr.P.C.

2. Petitioner herein who is an opponent to the said proceedings (opponent No.2) filed an application invoking provisions of Section 145(5) of the Cr.P.C. to vacate the order passed by the concerned Magistrate under section 145(1) thereof. That application seeks to set aside a preliminary order which was made by the concerned Magistrate on 31st August 1998. The application to vacate the same is filed on 30th June 2000 and the order under challenge is passed on 28th March 2003.

3. Both sides inform me that from 1998 till 2003 and even now in 2005, the proceedings have not been concluded. It is unfortunate that proceedings under section 145 are allowed to go on in this manner. This Court stayed the proceedings vide an ad-interim order dated 9th June 2005. However, the proceedings could have

been concluded much prior to the said date. The very purpose of inserting section 145 in the Code of Cr.P. is defeated by such inaction and delay. In my view, instead of interfering with the order at this stage, interest of justice would be served if the learned Magistrate before whom the proceedings are pending is directed to conclude the same as expeditiously as possible and in any event, within a period of 3 months from the date of receipt of this order.

4. All contentions on merits are kept open. Needless to state that during above period parties are also at liberty to file appropriate proceedings in civil court with regard to their right, title and interest in the immovable property in question. Neither the order passed in the proceedings under section 145 nor the present order would in any manner bar the civil court from passing appropriate orders in the civil suit.

5. I have refrained from going into the contentions of Mr.Khandeparkar and Mr.Raje with regard to merits because of the fact that application of petitioner made in 2000 was decided in 2003. No useful purpose will be served by going into all the contentions when the main matter itself could be disposed of expeditiously.

(S.C.DHARMADHIKARI, J)